

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
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Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Comments on Notice of Proposed Rulemaking – Recommended Decision Of the Federal-State Joint Board on Universal Service)	FCC 04-127
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COMMENTS OF THE
IOWA UTILITIES BOARD

Comes Now the Iowa Utilities Board (Iowa) and, pursuant to the pleading cycle established by the Federal Communications Commission (FCC or Commission) on June 8, 2004, offers the following comments in this matter. This notice invites parties to comment on the Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board). The FCC seeks comment on the recommendations concerning the process for designation of eligible telecommunications carriers (ETCs) and on its rules regarding high-cost universal service support. The FCC invites comments on whether these recommendations should be adopted, in whole or in part, so as to preserve and advance universal service, maintain competitive neutrality, and ensure the long-term sustainability of the fund. The FCC also solicits comments on several related proposals to streamline the rules governing annual certifications and submission of data by competitive ETCs requesting high-cost support.

ETC Designation Process:

The Joint Board recommends state commissions utilize flexible and non-binding federal guidelines in a rigorous ETC designation process. The Joint Board concluded that only qualified applicants that are prepared to serve all customers in their designated service area should be awarded ETC status. These guidelines will aide states in their public interest analysis and improve the long-term sustainability of the fund.

Iowa does not object to the application of flexible and non-binding federal guidelines. However, Iowa feels it is important that the FCC reemphasize the non-binding aspect of any adopted guidelines in its upcoming final decision. Additionally, Iowa believes that states should be given the flexibility to craft rules and filing requirements for compliance as an alternative to addressing each guideline for each ETC application on a case-by-case basis. States should have the option of fulfilling their duty to review ETC applications pursuant to state administrative rules.

The Joint Board concluded that it is neither prudent nor in the public interest when a financially unsound carrier is granted ETC status, receives support and is still unable to achieve long-term viability. Adequate financial resources and long term viability could be based on plans that tie investment to customer growth and demands. The Joint Board notes the FCC's conclusion that new entrants shouldn't be expected to make the substantial financial investment required to provide supported services in high cost areas without

some assurance of being eligible for USF support. In addition, carriers may be unable to secure financing or finalize business plans due to the uncertainty of receiving ETC designation.

Iowa believes that the determination of whether or not an ETC applicant's financial resources are adequate for universal service purposes should be based on specific uniform standards to be used in defining financial health or adequate financial resources with such standards being established by the FCC. Once specific uniform standards are established, states could develop and apply administrative rules to be used in the ETC designation and certification processes.

The Joint Board recommends states require ETC applicants demonstrate their capability and commitment to provide supported services throughout the designated service area and to be the sole ETC in an area where the ILEC relinquishes its designation. States should require ETC applicants to submit formal build-out plans for areas where facilities do not yet exist. States should also require ETCs to serve customers via resale. States can require ETC applicants to utilize resale in their plans to serve all customers upon reasonable request as a condition of ETC designation.

Iowa agrees with the Joint Board's recommendation to review build out plans. Iowa believes this requirement could be addressed in administrative rules at the state level.

The Joint Board recommends states require ETC applicants demonstrate their ability to remain functional in emergency situations. To accomplish this, states will need to make detailed factual findings of the technical capabilities of ETC applicants.

Iowa believes the requirements of this guideline can be met with detailed rules at the state level. Rules would require ETC applicants to provide information as to their ability to remain functional during emergency situations.

The Joint Board recommends states impose consumer protection requirements as a part of the ETC designation process. The consumer protections should be applied in order to further universal service goals and not for the sake of regulatory parity.

Iowa supports the application of consumer protection measures. Iowa believes that the requirements of this guideline can be met with rules on the state level as opposed to a case-by-case basis approach.

The Joint Board suggests states consider setting a minimum local usage requirement by comparing the ILEC's offering to the local calling plan proposed by the ETC applicant.

Iowa takes the position that the FCC should establish minimum local usage levels in an effort to provide a minimum nationwide standard. To enhance the competitive nature of this industry, carriers should be allowed to offer local usage in excess of the national standard.

The Joint Board recommends that the Commission encourage states to use the annual certification process for all ETCs to ensure that federal universal service support is used to provide supported services and associated infrastructure costs. This recommendation was made to ensure the accountability of all ETCs for proper use of funds. Additionally, the Joint Board believes that the state certification process provides the most reliable means of determining whether carriers are using support in a manner consistent with section 254.

Iowa does not object to the concept of imposing additional reporting requirements on ETC annual certifications. Updates to build-out schedules and corresponding operational and capital expenditures could be required pursuant to state administrative rules.

Performing annual audits of ETCs raises concerns for Iowa. Given the number of rural independents and CETCs operating within the state, annual audits of all service providers is not attainable with the Board's current staff level. If annual audits were to be performed, it may be appropriate to randomly sample a limited number of ETCs on an annual basis. Iowa is also concerned that in some situations, the cost to small service providers for the audits could exceed any high-cost support received.

Iowa offers another approach involving the use of USAC/NECA resources. Currently as part of the annual cost company data gathering efforts for high cost support filings, NECA conducts audits to determine the validity of the information

filed by the local service providers. The number of companies selected for audit is set as to provide a statistically valid sample. Iowa suggests that the Commission expand NECAs/USACs audit process to include verification of the utilization of support funds. Price-cap, CLECs, and average schedule companies would need to be included in the audit base. Reports of findings could be forwarded to the states.

Scope of Support:

The Joint Board recommends that the FCC limit the scope of high-cost support to a single connection. Limiting the scope of high-cost support to a single connection is more consistent with the goals of section 254 and increases fund sustainability. Limiting support to a single connection is competitively neutral and sends appropriate entry signals to competitive ETCs. The Joint Board contends that limiting support to a single connection will not unfairly advantage incumbent LECs because they preceded competitive ETCs in rural and high-cost areas.

The Joint Board recommends that the Commission take steps to avoid or mitigate reductions in the amount of high-cost support flowing to rural areas as a result of implementing a primary-line restriction. The Joint Board believes that if the Commission implements a primary-line restriction, it must adopt some means of preventing or mitigating reductions in support available to rural carriers. The Joint Board offers three potential proposals: (1) Restatement Proposal; (2) Lump Sum Payment Proposal; (3) "Hold Harmless" Proposal.

The Joint Board recommends that high-cost support in areas served by rural carriers be capped on a per-primary line basis when a competitive ETC is present or when a competitive ETC enters the market and be adjusted annually by an index factor.

Iowa believes that limiting the scope of high-cost support to only a primary connection could have an adverse impact on our small rural service providers. Currently, none of the price-cap companies within the state receive any high cost support. However, most of the remaining small companies receive some high-cost support. If a “safety-net” is not provided for these small companies as high cost support is targeted towards a single connection, most will experience a negative impact on their cash flows from the high-cost fund. The impact on each company will vary depending upon the number of lines being used for service other than a primary connection.

Iowa believes that regardless of the approach taken by the FCC to protect fund sustainability, the high-cost support flows to the small rural companies should be maintained. Many of these small carriers provide service in areas where entry of competitive service providers is unlikely and the infrastructure must be maintained if the rural consumers are to receive the same services as their urban counterparts at comparable rates.

Iowa recommends the FCC instruct USAC/NECA to gather needed information from the various carriers and determine the impact on individual companies prior to making a final decision in this matter. The FCC should take

all necessary steps to prevent or mitigate reductions in high-cost support to rural carriers.

Other Issues:

Currently, competitive ETCs that provide mobile wireless service are required to use the customer's billing address to identify the location of a mobile wireless customer within a disaggregation zone. In the *Rural Task Force Order*, the Commission concluded that this approach was reasonable and the most administratively simple solution for determining the location of a wireless customer for universal service purposes. The Commission recognized that the use of a customer's address could allow arbitrage, such as "identifying a customer in a high cost zone when service is primarily taken in a low-cost zone for the purpose of receiving a higher level of per-line support."

The Joint Board recommends that the Commission further develop the record on defining mobile wireless customer location in terms of place of primary use for universal service purposes. In particular, the Joint Board wants the Commission to gather information as to the extent of the problem. They suggest finding to what extent post offices boxes are being used to misrepresent customer locations and the level of fraudulent use of billing addresses occurring today. If the place of primary use is adopted, the Joint Board is also interested in determining how it will work in conjunction with virtual NXX.

In the collection of data from wireless carriers in the Iowa's 2003 competition survey of retail local voice services, the Board only encountered a

very small number of customers having billing addresses in locations other than where the service (NPA-NXX) was assigned or located. The Board believes that these customers live or work in areas other than the location assigned to the NPA-NXXs, with most billing addresses being in out-of-state locations. It appears that these customers use the wireless service to maintain contact with friends and family without incurring toll charges for those wishing to contact them or for themselves contacting individuals in the assigned NPA-NXX area. Since our collection efforts lacked contribution by some of the major wireless players, the full extent of this situation is unknown.

Under the Commission's rules, a rural carrier electing to disaggregate and target high-cost support must submit to USAC "maps which precisely identify the boundaries of the designated disaggregation zones of support within the carrier's study area."

The Joint Board recommends that the Commission delegate authority to USAC to develop standards for the submission of any maps that ETCs are required to submit to USAC under the Commission's rules in a uniform, electronic format.

Iowa agrees with this recommendation of the Joint Board. The recommendation is for the Commission to delegate authority to USAC for developing standards for the submission of any maps that ETC's are required to submit to USAC. Any submissions should be uniform from carrier to carrier,

available in an electronic format utilizing software that is common throughout the industry. Individuals retrieving map information should not be required to invest in expensive software for this purpose only. State regulatory agencies should also be able to adopt the standards, creating a uniform application nationwide.

Conclusion

Iowa appreciates the opportunity to comment on the FCC's Notice of Proposed Rulemaking on the Recommended Decision of the Joint Board. Iowa will submit further comments when and as appropriate.

Respectfully submitted,

David Lynch
General Counsel

John Ridgway
Manager
Telecommunications Section

Iowa Utilities Board
350 Maple Street
Des Moines, Iowa 50319-0069

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